

**ASSEMBLY BILL**

**No. 419**

---

**Introduced by Assembly Member Mitchell**

February 14, 2011

---

An act to amend Sections 1523.1, 1526.75, 1534, 1568.05, 1568.07, 1569.185, 1569.20, 1569.33, 1596.803, 1596.858, 1597.09, 1597.13, 1597.14, and 1597.55a of, and to repeal Sections 1526.5 and 1569.24 of, the Health and Safety Code, relating to community care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 419, as introduced, Mitchell. Community care facilities.

Under existing law, the State Department of Social Services licenses and regulates community care facilities that provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children. Under existing law the department charges various fees for the initial and renewal licensure of various types of facilities, based on capacity of the facility. Existing law also requires the department to charge a plan of correction fee of \$200 when a licensee does not implement a plan of correction on or prior to the date specified in the plan.

This bill would increase the initial application and renewal fees for these licenses, as prescribed. The bill would also replace the plan of correction fee with a reinspection fee of \$100, to be assessed when an inspection of a facility is necessary to ensure that a violation has been corrected.

Existing law requires the department to conduct an annual unannounced visit to a community care facility if any of various

specified conditions are met. Existing law also requires the department to inspect residential care facilities and residential care facilities for the elderly within 90 days after a facility accepts its first client for placement.

This bill would require the department to conduct an unannounced inspection of a community care facility, at minimum, once each year and as often as necessary to ensure the quality of care provided, except for family day care centers which the department would be required to inspect, at minimum, once every 2 years and as often as necessary to ensure the quality of care provided.

Existing law requires the department to conduct initial site visits before granting a license to a community care facility or a residential care facility for the elderly.

This bill would exempt the department from that requirement in specified cases but would not preclude the department, when acting within its discretionary authority, to make an initial site visit in those cases.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1523.1 of the Health and Safety Code is  
2 amended to read:

3 1523.1. (a) An application fee adjusted by facility and capacity  
4 shall be charged by the department for the issuance of a license.  
5 After initial licensure, a fee shall be charged by the department  
6 annually on each anniversary of the effective date of the license.  
7 The fees are for the purpose of financing the activities specified  
8 in this chapter. Fees shall be assessed as follows:

9				
10 Fee Schedule				
11		Initial		
12 Facility Type	Capacity	Application	Annual	
13 Foster Family and				
14 Adoption Agencies		\$2,750	\$1,375	
15				
16		\$3,025	\$1,513	
17 Adult Day Programs	1–15	\$165	\$83	
18		\$182	\$91	

1		16–30	\$275	\$138
2			\$303	\$152
3		31–60	\$550	\$275
4			\$605	\$303
5		61–75	\$689	\$344
6			\$758	\$378
7		76–90	\$825	\$413
8			\$908	\$454
9		91–120	\$1,100	\$550
10			\$1,210	\$605
11		121+	\$1,375	\$688
12			\$1,513	\$757
13		1–3	\$413	\$413
14	Other Community		\$454	\$454
15	Care Facilities	4–6	\$825	\$413
16			\$908	\$454
17		7–15	\$1,239	\$619
18			\$1,363	\$681
19		16–30	\$1,650	\$825
20			\$1,815	\$908
21		31–49	\$2,064	\$1,032
22			\$2,270	\$1,135
23		50–74	\$2,477	\$1,239
24			\$2,725	\$1,363
25		75–100	\$2,891	\$1,445
26			\$3,180	\$1,590
27		101–150	\$3,304	\$1,652
28			\$3,634	\$1,817
29		151–200	\$3,852	\$1,926
30			\$4,237	\$2,119
31		201–250	\$4,400	\$2,200
32			\$4,840	\$2,420
33		251–300	\$4,950	\$2,475
34			\$5,445	\$2,723
35		301–350	\$5,500	\$2,750
36			\$6,050	\$3,025
37		351–400	\$6,050	\$3,025
38			\$6,655	\$3,328
39		401–500	\$7,150	\$3,575
40			\$7,865	\$3,933

1	501–600	\$8,250	\$4,125
2		\$9,075	\$4,538
3	601–700	\$9,350	\$4,675
4		\$10,285	\$5,143
5	701+	\$11,000	\$5,500
6		\$12,100	\$6,050

7

8 (b) (1) In addition to fees set forth in subdivision (a), the  
9 department shall charge the following fees:

10 (A) A fee that represents 50 percent of an established application  
11 fee when an existing licensee moves the facility to a new physical  
12 address.

13 (B) A fee that represents 50 percent of the established  
14 application fee when a corporate licensee changes who has the  
15 authority to select a majority of the board of directors.

16 (C) A fee of twenty-five dollars (\$25) when an existing licensee  
17 seeks to either increase or decrease the licensed capacity of the  
18 facility.

19 (D) An orientation fee of fifty dollars (\$50) for attendance by  
20 any individual at a department-sponsored orientation session.

21 (E) A probation monitoring fee equal to the annual fee, in  
22 addition to the annual fee for that category and capacity for each  
23 year a license has been placed on probation as a result of a  
24 stipulation or decision and order pursuant to the administrative  
25 adjudication procedures of the Administrative Procedure Act  
26 (Chapter 4.5 (commencing with Section 11400) and Chapter 5  
27 (commencing with Section 11500) of Part 1 of Division 3 of Title  
28 2 of the Government Code).

29 (F) A late fee that represents an additional 50 percent of the  
30 established annual fee when any licensee fails to pay the annual  
31 licensing fee on or before the due date as indicated by postmark  
32 on the payment.

33 (G) A fee to cover any costs incurred by the department for  
34 processing payments including, but not limited to, bounced check  
35 charges, charges for credit and debit transactions, and postage due  
36 charges.

37 (H) ~~A plan of correction fee of two hundred dollars (\$200) when~~  
38 ~~any licensee does not implement a plan of correction on or prior~~  
39 ~~to the date specified in the plan. A reinspection fee of one hundred~~

1 *dollars (\$100) whenever an inspection of a facility is necessary to*  
2 *ensure a violation has been corrected.*

3 (2) Foster family homes shall be exempt from the fees imposed  
4 pursuant to this subdivision.

5 (3) Foster family agencies shall be annually assessed  
6 ~~eighty-eight dollars (\$88)~~ *ninety-seven dollars (\$97)* for each home  
7 certified by the agency.

8 (4) No local jurisdiction shall impose any business license, fee,  
9 or tax for the privilege of operating a facility licensed under this  
10 chapter which serves six or fewer persons.

11 (c) (1) The revenues collected from licensing fees pursuant to  
12 this section shall be utilized by the department for the purpose of  
13 ensuring the health and safety of all individuals provided care and  
14 supervision by licensees and to support activities of the licensing  
15 program, including, but not limited to, monitoring facilities for  
16 compliance with licensing laws and regulations pursuant to this  
17 chapter, and other administrative activities in support of the  
18 licensing program, when appropriated for these purposes. The  
19 revenues collected shall be used in addition to any other funds  
20 appropriated in the Budget Act in support of the licensing program.

21 (2) The department shall not utilize any portion of these revenues  
22 sooner than 30 days after notification in writing of the purpose  
23 and use of this revenue, as approved by the Director of Finance,  
24 to the Chairperson of the Joint Legislative Budget Committee, and  
25 the chairpersons of the committee in each house that considers  
26 appropriations for each fiscal year. The department shall submit  
27 a budget change proposal to justify any positions or any other  
28 related support costs on an ongoing basis.

29 (d) A facility may use a bona fide business check to pay the  
30 license fee required under this section.

31 (e) The failure of an applicant or licensee to pay all applicable  
32 and accrued fees and civil penalties shall constitute grounds for  
33 denial or forfeiture of a license.

34 SEC. 2. Section 1526.5 of the Health and Safety Code is  
35 repealed.

36 ~~1526.5. (a) Within 90 days after a facility accepts its first client~~  
37 ~~for placement following the issuance of a license or special permit~~  
38 ~~pursuant to Section 1525, the department shall inspect the facility.~~  
39 ~~The licensee shall, within five business days after accepting its~~  
40 ~~first client for placement, notify the department that the facility~~

1 has commenced operating. Foster family homes are exempt from  
2 the provisions of this subdivision.

3 (b) ~~The inspection required by subdivision (a) shall be conducted~~  
4 ~~to evaluate compliance with rules and regulations and to assess~~  
5 ~~the facility's continuing ability to meet regulatory requirements.~~  
6 ~~The department may take appropriate remedial action as authorized~~  
7 ~~by this chapter.~~

8 SEC. 3. Section 1526.75 of the Health and Safety Code is  
9 amended to read:

10 1526.75. (a) It is the intent of the Legislature to maintain  
11 quality resources for children needing placement away from their  
12 families. If, during a periodic inspection ~~or an inspection pursuant~~  
13 ~~to Section 1526.5~~, a facility is found *to be* out of compliance with  
14 one or more of the licensing standards of the department, the  
15 department shall, unless an ongoing investigation precludes it,  
16 advise the provider of the noncompliance as soon as possible. The  
17 provider shall be given the opportunity to correct the deficiency.

18 (b) The department shall implement a procedure whereby  
19 citations for noncompliance may be appealed and reviewed.

20 (c) Nothing in this section shall preclude the department from  
21 taking ~~any~~ *an* action it may deem necessary to ensure the safety  
22 of children and adults placed in ~~any~~ *a* facility.

23 SEC. 4. Section 1534 of the Health and Safety Code is amended  
24 to read:

25 ~~1534. (a) (1) Every licensed community care facility shall be~~  
26 ~~subject to unannounced visits by the department. The department~~  
27 ~~shall visit these facilities as often as necessary to ensure the quality~~  
28 ~~of care provided.~~

29 (A) ~~The department shall conduct an annual unannounced visit~~  
30 ~~to a facility under any of the following circumstances:~~

31 (i) ~~When a license is on probation.~~

32 (ii) ~~When the terms of agreement in a facility compliance plan~~  
33 ~~require an annual evaluation.~~

34 (iii) ~~When an accusation against a licensee is pending.~~

35 (iv) ~~When a facility requires an annual visit as a condition of~~  
36 ~~receiving federal financial participation.~~

37 (v) ~~In order to verify that a person who has been ordered out of~~  
38 ~~a facility by the department is no longer at the facility.~~

39 (B) (i) ~~The department shall conduct annual unannounced visits~~  
40 ~~to no less than 20 percent of facilities not subject to an evaluation~~

1 under subparagraph (A). These unannounced visits shall be  
2 conducted based on a random sampling methodology developed  
3 by the department.

4 (ii) If the total citations issued by the department exceed the  
5 previous year's total by 10 percent, the following year the  
6 department shall increase the random sample by an additional 10  
7 percent of the facilities not subject to an evaluation under  
8 subparagraph (A). The department may request additional resources  
9 to increase the random sample by 10 percent.

10 (C) Under no circumstance shall the department visit a  
11 community care facility less often than once every five years.

12 1534. (a) (1) (A) Every licensed community care facility shall  
13 be inspected at least once per year and as often as necessary to  
14 ensure the quality of care provided. Evaluation visits shall be  
15 unannounced, except as noted in Section 1533.

16 (D)

17 (B) In order to facilitate direct contact with group home clients,  
18 the department may interview children who are clients of group  
19 homes at any public agency or private agency at which the client  
20 may be found, including, but not limited to, a juvenile hall, a  
21 recreation or vocational program, or a nonpublic school. The  
22 department shall respect the rights of the child while conducting  
23 the interview, including informing the child that he or she has the  
24 right not to be interviewed and the right to have another adult  
25 present during the interview.

26 (2) The department shall notify the community care facility in  
27 writing of all deficiencies in its compliance with the provisions of  
28 this chapter and the rules and regulations adopted pursuant to this  
29 chapter, and shall set a reasonable length of time for compliance  
30 by the facility.

31 (3) Reports on the results of each inspection, evaluation, or  
32 consultation shall be kept on file in the department, and all  
33 inspection reports, consultation reports, lists of deficiencies, and  
34 plans of correction shall be open to public inspection.

35 (b) (1) Nothing in this section shall limit the authority of the  
36 department to inspect or evaluate a licensed foster family agency,  
37 a certified family home, or any aspect of a program where a  
38 licensed community care facility is certifying compliance with  
39 licensing requirements.

(2) Upon a finding of noncompliance by the department, the department may require a foster family agency to deny or revoke the certificate of approval of a certified family home, or take other action the department may deem necessary for the protection of a child placed with the family home. The family home shall be afforded the due process provided pursuant to this chapter.

(3) If the department requires a foster family agency to deny or revoke the certificate of approval, the department shall serve an order of denial or revocation upon the certified or prospective foster parent and foster family agency that shall notify the certified or prospective foster parent of the basis of the department's action and of the certified or prospective foster parent's right to a hearing.

(4) Within 15 days after the department serves an order of denial or revocation, the certified or prospective foster parent may file a written appeal of the department's decision with the department. The department's action shall be final if the certified or prospective foster parent does not file a written appeal within 15 days after the department serves the denial or revocation order.

(5) The department's order of the denial or revocation of the certificate of approval shall remain in effect until the hearing is completed and the director has made a final determination on the merits.

(6) A certified or prospective foster parent who files a written appeal of the department's order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The certified or prospective foster parent shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(7) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. In all proceedings conducted in accordance with this section the standard of proof shall be by a preponderance of the evidence.

(8) The department may institute or continue a disciplinary proceeding against a certified or prospective foster parent upon any ground provided by this section, enter an order denying or revoking the certificate of approval, or otherwise take disciplinary action against the certified or prospective foster parent, notwithstanding any resignation, withdrawal of application,



surrender of the certificate of approval, or denial or revocation of the certificate of approval by the foster family agency.

(9) A foster family agency's failure to comply with the department's order to deny or revoke the certificate of employment by placing or retaining children in care shall be grounds for disciplining the licensee pursuant to Section 1550.

SEC. 5. Section 1568.05 of the Health and Safety Code is amended to read:

1568.05. (a) An application fee adjusted by facility and capacity, shall be charged by the department for a license to operate a residential care facility for persons with chronic life-threatening illness. After initial licensure, a fee shall be charged by the department annually, on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows:

Capacity	Fee Schedule	
	Initial	Annual
1–6	\$550	\$275
	\$605	\$303 plus \$10 per bed
7–15	\$689	\$344
	\$758	\$378 plus \$10 per bed
16–25	\$825	\$413
	\$908	\$454 plus \$10 per bed
26+	\$964	\$482
	\$1,060	\$530 plus \$10 per bed

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

1 (D) An orientation fee of fifty dollars (\$50) for attendance by  
2 ~~any~~ *an* individual at a department-sponsored orientation session.

3 (E) A probation monitoring fee equal to the annual fee, in  
4 addition to the annual fee for that category and capacity for each  
5 year a license has been placed on probation as a result of a  
6 stipulation or decision and order pursuant to the administrative  
7 adjudication procedures of the Administrative Procedure Act  
8 (Chapter 4.5 (commencing with Section 11400) and Chapter 5  
9 (commencing with Section 11500) of Part 1 of Division 3 of Title  
10 2 of the Government Code).

11 (F) A late fee that represents an additional 50 percent of the  
12 established annual fee when ~~any~~ *a* licensee fails to pay the annual  
13 licensing fee on or before the due date, as indicated by postmark  
14 on the payment.

15 (G) A fee to cover ~~any~~ costs incurred by the department for  
16 processing payments including, but not limited to, bounced check  
17 charges, charges for credit and debit transactions, and postage due  
18 charges.

19 (H) ~~A plan of correction fee of two hundred dollars (\$200) when~~  
20 ~~any licensee does not implement a plan of correction on or prior~~  
21 ~~to the date specified in the plan. A reinspection fee of one hundred~~  
22 ~~dollars (\$100) whenever an inspection of a facility is necessary to~~  
23 ~~ensure that a violation has been corrected.~~

24 (2) No local governmental entity shall impose ~~any~~ *a* business  
25 license, fee, or tax for the privilege of operating a facility licensed  
26 under this chapter ~~which~~ *that* serves six or fewer persons.

27 (c) All fees collected pursuant to subdivisions (a) and (b) shall  
28 be deposited in the Technical Assistance Fund.

29 (d) The revenues collected from licensing fees pursuant to this  
30 section shall be utilized by the department for the purpose of  
31 ensuring the health and safety of all individuals provided care and  
32 supervision by licensees and to support activities of the licensing  
33 program, including, but not limited to, monitoring facilities for  
34 compliance with licensing laws and regulations pursuant to this  
35 chapter, and other administrative activities in support of the  
36 licensing program, when appropriated for these purposes. The  
37 revenues collected shall be used in addition to any other funds  
38 appropriated in the Budget Act in support of the licensing program.

39 (e) The department shall not utilize any portion of the revenues  
40 collected pursuant to this section sooner than 30 days after

1 notification in writing of the purpose and use of this revenue, as  
2 approved by the Director of Finance, to the Chairperson of the  
3 Joint Legislative Budget Committee, and the chairpersons of the  
4 committee in each house that considers appropriations for each  
5 fiscal year. The department shall submit a budget change proposal  
6 to justify any positions or any other related support costs on an  
7 ongoing basis.

8 (f) Fees established pursuant to this section shall not be effective  
9 unless licensing fees are established for all adult residential  
10 facilities licensed by the department.

11 (g) A residential care facility may use a bona fide business check  
12 to pay the license fee required under this section.

13 (h) The failure of an applicant for licensure or a licensee to pay  
14 all applicable and accrued fees and civil penalties shall constitute  
15 grounds for denial or forfeiture of a license.

16 SEC. 6. Section 1568.07 of the Health and Safety Code is  
17 amended to read:

18 ~~1568.07. (a) (1) Within 90 days after a facility accepts its first~~  
19 ~~resident for placement following its initial licensure, the department~~  
20 ~~shall inspect the facility to evaluate compliance with rules and~~  
21 ~~regulations and to assess the facility's continuing ability to meet~~  
22 ~~regulatory requirements. The licensee shall notify the department,~~  
23 ~~within five business days after accepting its first resident for~~  
24 ~~placement, that the facility has commenced operating.~~

25 ~~(2) The department may take appropriate remedial action as~~  
26 ~~provided for in this chapter.~~

27 ~~(b)~~

28 *1568.07. (a) (1) Every licensed residential care facility shall*  
29 *be periodically inspected and evaluated for quality of care by a*  
30 *representative or representatives designated by the director.*  
31 *Evaluations shall be conducted at least annually and as often as*  
32 *necessary to ensure the quality of care being provided.*

33 (2) During each licensing inspection the department shall  
34 determine if the facility meets regulatory standards, including, but  
35 not limited to, providing residents with the appropriate level of  
36 care based on the facility's license, providing adequate staffing  
37 and services, updated resident records and assessments, and  
38 compliance with basic health and safety standards.

39 (3) If the department determines that a resident requires a higher  
40 level of care than the facility is authorized to provide, the

1 department may initiate a professional level of care assessment by  
2 an assessor approved by the department. An assessment shall be  
3 conducted in consultation with the resident, the resident's physician  
4 and surgeon, and the resident's case manager, and shall reflect the  
5 desires of the resident, the resident's physician and surgeon, and  
6 the resident's case manager. The assessment also shall recognize  
7 that certain illnesses are episodic in nature and that the resident's  
8 need for a higher level of care may be temporary.

9 (4) The department shall notify the residential care facility in  
10 writing of all deficiencies in its compliance with this chapter and  
11 the rules and regulations adopted pursuant to this chapter, and shall  
12 set a reasonable length of time for compliance by the facility.

13 (5) Reports on the results of each inspection, evaluation, or  
14 consultation shall be kept on file in the department, and all  
15 inspection reports, consultation reports, lists of deficiencies, and  
16 plans of correction shall be open to public inspection.

17 (6) *The department may take appropriate remedial action as*  
18 *provided for in this chapter.*

19 ~~(e) Any~~

20 (b) A duly authorized officer, employee, or agent of the  
21 department may, upon presentation of proper identification, enter  
22 and inspect any place providing personal care, supervision, and  
23 services, at any time, with or without advance notice, to secure  
24 compliance with, or to prevent a violation of, this chapter.

25 ~~(d)~~

26 (c) No licensee shall discriminate or retaliate in any manner  
27 against ~~any~~ a person receiving the services of the facility of the  
28 licensee, or against ~~any~~ an employee of the facility, on the basis,  
29 or for the reason, that a person or employee or any other person  
30 has initiated or participated in an inspection pursuant to Section  
31 1568.071.

32 ~~(e) Any~~

33 (d) A person who, without lawful authorization from a duly  
34 authorized officer, employee, or agent of the department, informs  
35 an owner, operator, employee, agent, or resident of a residential  
36 care facility, of an impending or proposed inspection or evaluation  
37 of that facility by personnel of the department, is guilty of a  
38 misdemeanor and upon conviction thereof shall be punished by a  
39 fine not to exceed one thousand dollars (\$1,000), by imprisonment

in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 7. Section 1569.185 of the Health and Safety Code is amended to read:

1569.185. (a) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a residential care facility for the elderly. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license.

The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows:

Fee Schedule

Capacity	Initial Application	Annual
1–3	<del>\$413</del>	<del>\$413</del>
	<del>\$454</del>	<del>\$454</del>
4–6	<del>\$825</del>	<del>\$413</del>
	<del>\$908</del>	<del>\$454</del>
7–15	<del>\$1,239</del>	<del>\$619</del>
	<del>\$1,363</del>	<del>\$681</del>
16–30	<del>\$1,650</del>	<del>\$825</del>
	<del>\$1,815</del>	<del>\$908</del>
31–49	<del>\$2,064</del>	<del>\$1,032</del>
	<del>\$2,270</del>	<del>\$1,135</del>
50–74	<del>\$2,477</del>	<del>\$1,239</del>
	<del>\$2,725</del>	<del>\$1,363</del>
75–100	<del>\$2,891</del>	<del>\$1,445</del>
	<del>\$3,180</del>	<del>\$1,590</del>
101–150	<del>\$3,304</del>	<del>\$1,652</del>
	<del>\$3,634</del>	<del>\$1,817</del>
151–200	<del>\$3,852</del>	<del>\$1,926</del>
	<del>\$4,237</del>	<del>\$2,119</del>
201–250	<del>\$4,400</del>	<del>\$2,200</del>
	<del>\$4,840</del>	<del>\$2,420</del>
251–300	<del>\$4,950</del>	<del>\$2,475</del>
	<del>\$5,445</del>	<del>\$2,723</del>
301–350	<del>\$5,500</del>	<del>\$2,750</del>
	<del>\$6,050</del>	<del>\$3,025</del>
351–400	<del>\$6,050</del>	<del>\$3,025</del>

1		\$6,655	\$3,328
2	401-500	<del>\$7,150</del>	<del>\$3,575</del>
3		\$7,865	\$3,933
4	501-600	<del>\$8,250</del>	<del>\$4,125</del>
5		\$9,075	\$4,538
6	601-700	<del>\$9,350</del>	<del>\$4,675</del>
7		\$10,285	\$5,143
8	701+	<del>\$11,000</del>	<del>\$5,500</del>
9		\$12,100	\$6,050

10

11 (b) (1) In addition to fees set forth in subdivision (a), the  
 12 department shall charge the following fees:

13 (A) A fee that represents 50 percent of an established application  
 14 fee when an existing licensee moves the facility to a new physical  
 15 address.

16 (B) A fee that represents 50 percent of the established  
 17 application fee when a corporate licensee changes who has the  
 18 authority to select a majority of the board of directors.

19 (C) A fee of twenty-five dollars (\$25) when an existing licensee  
 20 seeks to either increase or decrease the licensed capacity of the  
 21 facility.

22 (D) An orientation fee of fifty dollars (\$50) for attendance by  
 23 any individual at a department-sponsored orientation session.

24 (E) A probation monitoring fee equal to the annual fee, in  
 25 addition to the annual fee for that category and capacity for each  
 26 year a license has been placed on probation as a result of a  
 27 stipulation or decision and order pursuant to the administrative  
 28 adjudication procedures of the Administrative Procedure Act  
 29 (Chapter 4.5 (commencing with Section 11400) and Chapter 5  
 30 (commencing with Section 11500) of Part 1 of Division 3 of Title  
 31 2 of the Government Code).

32 (F) A late fee that represents an additional 50 percent of the  
 33 established annual fee when any licensee fails to pay the annual  
 34 licensing fee on or before the due date as indicated by postmark  
 35 on the payment.

36 (G) A fee to cover any costs incurred by the department for  
 37 processing payments including, but not limited to, bounced check  
 38 charges, charges for credit and debit transactions, and postage due  
 39 charges.

1 (H) ~~A plan of correction fee of two hundred dollars (\$200) when~~  
2 ~~any licensee does not implement a plan of correction on or prior~~  
3 ~~to the date specified in the plan. A reinspection fee of one hundred~~  
4 ~~dollars (\$100) whenever an inspection of a facility is necessary to~~  
5 ~~ensure that a violation has been corrected.~~

6 (2) No local jurisdiction shall impose ~~any~~ a business license,  
7 fee, or tax for the privilege of operating a facility licensed under  
8 this chapter ~~which~~ that serves six or fewer persons.

9 (c) (1) The revenues collected from licensing fees pursuant to  
10 this section shall be utilized by the department for the purpose of  
11 ensuring the health and safety of all individuals provided care or  
12 supervision by licensees and to support the activities of the  
13 licensing programs, including, but not limited to, monitoring  
14 facilities for compliance with licensing laws and regulations  
15 pursuant to this chapter, and other administrative activities in  
16 support of the licensing program, when appropriated for these  
17 purposes. The revenues collected shall be used in addition to any  
18 other funds appropriated in the annual Budget Act in support of  
19 the licensing program.

20 (2) The department shall not utilize any portion of these revenues  
21 sooner than 30 days after notification in writing of the purpose  
22 and use, as approved by the Department of Finance, to the  
23 Chairperson of the Joint Legislative Budget Committee, and the  
24 chairpersons of the committee in each house that considers  
25 appropriations for each fiscal year. The department shall submit  
26 a budget change proposal to justify any positions or any other  
27 related support costs on an ongoing basis.

28 (d) A residential care facility for the elderly may use a bona  
29 fide business check to pay the license fee required under this  
30 section.

31 (e) The failure of an applicant for licensure or a licensee to pay  
32 all applicable and accrued fees and civil penalties shall constitute  
33 grounds for denial or forfeiture of a license.

34 SEC. 8. Section 1569.20 of the Health and Safety Code is  
35 amended to read:

36 1569.20. Upon the filing of the application for issuance of an  
37 initial license, the department shall, within five working days of  
38 the filing, make a determination regarding the completeness of the  
39 application. If the application is complete, the department shall  
40 immediately request a fire clearance and notify the applicant to

1 arrange a time for the department to conduct a prelicensure survey.  
2 *Applicants for licensure of a currently or previously licensed*  
3 *facility are exempt from the initial site visit. This does not preclude*  
4 *the department, when acting within its discretionary authority,*  
5 *from making an initial site visit.* If the application is incomplete,  
6 the department shall notify the applicant and request the necessary  
7 information. Within 60 days of making a determination that the  
8 file is complete, the department shall make a determination whether  
9 the application is in compliance with this chapter and the rules and  
10 regulations of the department and shall either immediately issue  
11 the license or notify the applicant of the deficiencies. The notice  
12 shall specify whether the deficiencies constitute denial of the  
13 application or whether further corrections for compliance will  
14 likely result in approval of the application.

15 SEC. 9. Section 1569.24 of the Health and Safety Code is  
16 repealed.

17 ~~1569.24. Within 90 days after a facility accepts its first resident~~  
18 ~~for placement following its initial licensure, the department shall~~  
19 ~~inspect the facility to evaluate compliance with rules and~~  
20 ~~regulations and to assess the facility's continuing ability to meet~~  
21 ~~regulatory requirements. The licensee shall notify the department,~~  
22 ~~within five business days after accepting its first resident for~~  
23 ~~placement, that the facility has commenced operating.~~

24 ~~The department may take appropriate remedial action as provided~~  
25 ~~for in this chapter.~~

26 SEC. 10. Section 1569.33 of the Health and Safety Code is  
27 amended to read:

28 1569.33. (a) Every licensed residential care facility for the  
29 elderly shall be subject to unannounced visits by the department.  
30 The department shall visit these facilities as often as necessary to  
31 ensure the quality of care provided.

32 ~~(b) The department shall conduct an annual unannounced visit~~  
33 ~~of a facility under any of the following circumstances:~~

- 34 ~~(1) When a license is on probation.~~  
35 ~~(2) When the terms of agreement in a facility compliance plan~~  
36 ~~require an annual evaluation.~~  
37 ~~(3) When an accusation against a licensee is pending.~~  
38 ~~(4) When a facility requires an annual visit as a condition of~~  
39 ~~receiving federal financial participation.~~



1     ~~(5) In order to verify that a person who has been ordered out of~~  
2     ~~the facility for the elderly by the department is no longer at the~~  
3     ~~facility.~~

4     ~~(e) (1) The department shall conduct annual unannounced visits~~  
5     ~~to no less than 20 percent of facilities not subject to an evaluation~~  
6     ~~under subdivision (b). These unannounced visits shall be conducted~~  
7     ~~based on a random sampling methodology developed by the~~  
8     ~~department.~~

9     ~~(2) If the total citations issued by the department exceed the~~  
10    ~~previous year's total by 10 percent, the following year the~~  
11    ~~department shall increase the random sample by 10 percent of the~~  
12    ~~facilities not subject to an evaluation under subdivision (b). The~~  
13    ~~department may request additional resources to increase the random~~  
14    ~~sample by 10 percent.~~

15    ~~(d) Under no circumstance shall the department visit a residential~~  
16    ~~care facility for the elderly less often than once every five years.~~

17    ~~(e)~~

18    ~~(b) The department shall notify the residential care facility for~~  
19    ~~the elderly in writing of all deficiencies in its compliance with the~~  
20    ~~provisions of this chapter and the rules and regulations adopted~~  
21    ~~pursuant to this chapter, and shall set a reasonable length of time~~  
22    ~~for compliance by the facility.~~

23    ~~(f)~~

24    ~~(c) Reports on the results of each inspection, evaluation, or~~  
25    ~~consultation shall be kept on file in the department, and all~~  
26    ~~inspection reports, consultation reports, lists of deficiencies, and~~  
27    ~~plans of correction shall be open to public inspection.~~

28    ~~(g)~~

29    ~~(d) As a part of the department's evaluation process, the~~  
30    ~~department shall review the plan of operation, training logs, and~~  
31    ~~marketing materials of any a residential care facility for the elderly~~  
32    ~~that advertises or promotes special care, special programming, or~~  
33    ~~a special environment for persons with dementia to monitor~~  
34    ~~compliance with Sections 1569.626 and 1569.627.~~

35    SEC. 11. Section 1596.803 of the Health and Safety Code is  
36    amended to read:

37    1596.803. (a) An application fee adjusted by facility and  
38    capacity shall be charged by the department for the issuance of a  
39    license to operate a child day care facility. After initial licensure,  
40    a fee shall be charged by the department annually, on each

anniversary of the effective date of the license. The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows:

Fee Schedule			
Facility Type	Capacity	Original Application	Annual Fee
Family Day Care	1–8	\$66—	\$66—
		\$73	\$73
Day Care Centers	9–14	\$127—	\$127—
		\$140	\$140
	1–30	\$440—	\$220—
		\$484	\$242
	31–60	\$880—	\$440—
		\$968	\$484
	61–75	\$1,100—	\$550—
		\$1,210	\$605
	76–90	\$1,320—	\$660—
		\$1,452	\$726
	91–120	\$1,760—	\$880—
		\$1,936	\$968
	121+	\$2,200—	\$1,100—
		\$2,420	\$1,210

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of twenty-five dollars (\$25) for attendance by any individual at a department-sponsored family child day care home orientation session, and a fifty dollar (\$50) orientation fee for attendance by any individual at a department-sponsored child day care center orientation session.

1 (E) A probation monitoring fee equal to the annual fee, in  
2 addition to the annual fee for that category and capacity for each  
3 year a license has been placed on probation as a result of a  
4 stipulation or decision and order pursuant to the administrative  
5 adjudication procedures of the Administrative Procedure Act  
6 (Chapter 4.5 (commencing with Section 11400) and Chapter 5  
7 (commencing with Section 11500) of Part 1 of Division 3 of Title  
8 2 of the Government Code).

9 (F) A late fee that represents an additional 50 percent of the  
10 established annual fee when any licensee fails to pay the annual  
11 licensing fee on or before the due date as indicated by postmark  
12 on the payment.

13 (G) A fee to cover any costs incurred by the department for  
14 processing payments including, but not limited to, bounced check  
15 charges, charges for credit and debit transactions, and postage due  
16 charges.

17 (H) ~~A plan of correction fee of two hundred dollars (\$200) when~~  
18 ~~any licensee does not implement a plan of correction on or prior~~  
19 ~~to the date specified in the plan. A reinspection fee of one hundred~~  
20 ~~dollars (\$100) whenever an inspection of a facility is necessary to~~  
21 ~~ensure a violation has been corrected.~~

22 (2) No local jurisdiction shall impose ~~any~~ a business license,  
23 fee, or tax for the privilege of operating a small family day care  
24 home licensed under this act.

25 (c) (1) The revenues collected from licensing fees pursuant to  
26 this section shall be utilized by the department for the purpose of  
27 ensuring the health and safety of all individuals provided care and  
28 supervision by licensees, and to support the activities of the  
29 licensing program, including, but not limited to, monitoring  
30 facilities for compliance with licensing laws and regulations  
31 pursuant to this act, and other administrative activities in support  
32 of the licensing program, when appropriated for these purposes.  
33 The revenues collected shall be used in addition to any other funds  
34 appropriated in the annual Budget Act in support of the licensing  
35 program.

36 (2) The department shall not utilize any portion of these revenues  
37 sooner than 30 days after notification in writing of the purpose  
38 and use, as approved by the Department of Finance, to the  
39 Chairperson of the Joint Legislative Budget Committee, and the  
40 chairpersons of the committee in each house that considers

1 appropriations for each fiscal year. The department shall submit  
2 a budget change proposal to justify any positions or any other  
3 related support costs on an ongoing basis.

4 (d) A child day care facility may use a bona fide business or  
5 personal check to pay the license fee required under this section.

6 (e) The failure of an applicant for licensure or a licensee to pay  
7 all applicable and accrued fees and civil penalties shall constitute  
8 grounds for denial or forfeiture of a license.

9 SEC. 12. Section 1596.858 of the Health and Safety Code is  
10 amended to read:

11 1596.858. A license shall be forfeited by operation of law prior  
12 to its expiration date when any ~~one~~ of the following occurs:

13 (a) The licensee sells or otherwise transfers the facility or facility  
14 property, except when change of ownership applies to transferring  
15 of stock when the facility is owned by a corporation, and when  
16 the transfer of stock does not constitute a majority change in  
17 ownership.

18 (b) The licensee surrenders the license to the department.

19 (c) The licensee moves the facility from one location to another.  
20 The department shall develop regulations to ensure that the  
21 facilities are not charged a full licensing fee and do not have to  
22 complete the entire application process when applying for license  
23 for the new location.

24 (d) The licensee is convicted of an offense specified in Section  
25 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section  
26 273d, 288, or 289 of the Penal Code, or is convicted of another  
27 crime specified in subdivision (c) of Section 667.5 of the Penal  
28 Code.

29 (e) The licensee dies. If an adult relative notifies the department  
30 of his or her desire to continue operation of the facility and submits  
31 an application, the department shall expedite the application.  
32 *Applicants for licensure pursuant to this subdivision are exempt*  
33 *from the initial site visit required by Section 1597.13. This does*  
34 *not preclude the department, when acting within its discretionary*  
35 *authority, from making an initial site visit.* The department shall  
36 promulgate regulations for expediting applications submitted  
37 pursuant to this subdivision.

38 (f) The licensee abandons the facility.

39 SEC. 13. Section 1597.09 of the Health and Safety Code is  
40 amended to read:

1 1597.09. ~~(a)~~ Each licensed child day care center shall be  
2 subject to unannounced visits by the department. The department  
3 shall visit these facilities *at least once per year and* as often as  
4 necessary to ensure the quality of care provided.

5 ~~(b) The department shall conduct an annual unannounced visit~~  
6 ~~to a licensed child day care center under any of the following~~  
7 ~~circumstances:~~

8 ~~(1) When a license is on probation.~~

9 ~~(2) When the terms of agreement in a facility compliance plan~~  
10 ~~require an annual evaluation.~~

11 ~~(3) When an accusation against a licensee is pending.~~

12 ~~(4) In order to verify that a person who has been ordered out of~~  
13 ~~a child day care center by the department is no longer at the facility.~~

14 ~~(c) (1) The department shall conduct an annual unannounced~~  
15 ~~visit to no less than 20 percent of facilities not subject to an~~  
16 ~~evaluation under subdivision (b). These unannounced visits shall~~  
17 ~~be conducted based on a random sampling methodology developed~~  
18 ~~by the department.~~

19 ~~(2) If the total citations issued by the department exceed the~~  
20 ~~previous year's total by 10 percent, the following year the~~  
21 ~~department shall increase the random sample by 10 percent of~~  
22 ~~facilities not subject to an evaluation under subdivision (b). The~~  
23 ~~department may request additional resources to increase the random~~  
24 ~~sample by 10 percent.~~

25 ~~(d) Under no circumstance shall the department visit a licensed~~  
26 ~~child day care center less often than once every five years.~~

27 SEC. 14. Section 1597.13 of the Health and Safety Code is  
28 amended to read:

29 1597.13. (a) The department and any local agency with which  
30 it contracts for the licensing of day care centers shall grant or deny  
31 an application for license within 30 days after receipt of all  
32 appropriate licensing application materials, as determined by the  
33 department, after a site visit has been completed and the facility  
34 has been found to be in compliance with licensing standards. The  
35 department shall conduct an initial site visit within 30 days after  
36 the receipt of all appropriate licensing application materials.

37 (b) *The department may exercise its discretion and elect not to*  
38 *conduct the site visit required by subdivision (a) after the receipt*  
39 *of all appropriate licensing application materials when an*

1 *operating day care center licensee sells or transfers the property*  
2 *or business to a new license applicant.*

3 SEC. 15. Section 1597.14 of the Health and Safety Code is  
4 amended to read:

5 1597.14. (a) Notwithstanding Section 1596.858, in the event  
6 of a sale of a licensed child day care center where the sale will  
7 result in a new license being issued, the sale and transfer of  
8 property and business shall be subject to both of the following:

9 (1) The licensee shall provide written notice to the department  
10 and to the child's parent or his or her legal guardian of the  
11 licensee's intent to sell the child day care center at least 30 days  
12 prior to the transfer of the property or business, or at the time that  
13 a bona fide offer is made, whichever period is longer.

14 (2) The licensee shall, prior to entering into an admission  
15 agreement, inform the child's parent or his or her legal guardian,  
16 admitted to the facility after notification to the department, of the  
17 licensee's intent to sell the property or business.

18 (b) Except as provided in subdivision (e), the property and  
19 business shall not be transferred until the buyer qualifies for a  
20 license or provisional license pursuant to this chapter.

21 (1) The seller shall notify, in writing, a prospective buyer of the  
22 necessity to obtain a license, as required by this chapter, if the  
23 buyer's intent is to continue operating the facility as a child day  
24 care center. The seller shall send a copy of this written notice to  
25 the licensing agency.

26 (2) The prospective buyer shall submit an application for a  
27 license, as specified in Section 1596.95, within five days of the  
28 acceptance of the offer by the seller.

29 (c) No transfer of the facility shall be permitted until 30 days  
30 have elapsed from the date when notice has been provided to the  
31 department pursuant to paragraph (1) of subdivision (a).

32 (d) The department shall give priority to applications for  
33 licensure that are submitted pursuant to this section in order to  
34 ensure timely transfer of the property and business. *Applicants for*  
35 *licensure pursuant to this subdivision are exempt from the initial*  
36 *site visit required by Section 1597.13. This does not preclude the*  
37 *department, when acting within its discretionary authority, from*  
38 *making an initial site visit.* The department shall make a decision  
39 within 60 days after a complete application is submitted on whether  
40 to issue a license pursuant to Section 1596.95.

1 (e) If the parties involved in the transfer of the property and  
2 business fully comply with this section, then the transfer may be  
3 completed and the buyer shall not be considered to be operating  
4 an unlicensed facility while the department makes a final  
5 determination on the application for licensure.

6 SEC. 16. Section 1597.55a of the Health and Safety Code is  
7 amended to read:

8 1597.55a. Every family day care home shall be subject to  
9 unannounced visits by the department as provided in this section.  
10 The department shall visit these facilities *at least once every two*  
11 *years and* as often as necessary to ensure the quality of care  
12 provided.

13 (a) The department shall conduct an announced site visit prior  
14 to the initial licensing of the applicant.

15 (b) The department shall conduct an annual unannounced visit  
16 to a facility under any of the following circumstances:

17 (1) When a license is on probation.

18 (2) When the terms of agreement in a facility compliance plan  
19 require an annual evaluation.

20 (3) When an accusation against a licensee is pending.

21 (4) In order to verify that a person who has been ordered out of  
22 a family day care home by the department is no longer at the  
23 facility.

24 ~~(e) (1) The department shall conduct annual unannounced visits~~  
25 ~~to no less than 20 percent of facilities not subject to an evaluation~~  
26 ~~under subdivision (b). These unannounced visits shall be conducted~~  
27 ~~based on a random sampling methodology developed by the~~  
28 ~~department.~~

29 ~~(2) If the total citations issued by the department exceed the~~  
30 ~~previous year's total by 10 percent, the following year the~~  
31 ~~department shall increase the random sample by 10 percent of the~~  
32 ~~facilities not subject to an evaluation under subdivision (b). The~~  
33 ~~department may request additional resources to increase the random~~  
34 ~~sample by 10 percent.~~

35 ~~(d) Under no circumstance shall the department visit a licensed~~  
36 ~~family day care home less often than once every five years.~~

37 ~~(e)~~

38 (c) A public agency under contract with the department may  
39 make spot checks if it does not result in ~~any~~ a cost to the state.  
40 However, spot checks shall not be required by the department.

1     ~~(f)~~

2     (d) The department or licensing agency shall make an  
3 unannounced site visit on the basis of a complaint and a followup  
4 visit as provided in Section 1596.853.

5     ~~(g)~~

6     (e) An unannounced site visit shall adhere to both of the  
7 following conditions:

8     (1) The visit shall take place only during the facility's normal  
9 business hours or at any time family day care services are being  
10 provided.

11    (2) The inspection of the facility shall be limited to those parts  
12 of the facility in which family day care services are provided or  
13 to which the children have access.

14    ~~(h)~~

15    (f) The department shall implement this section during periods  
16 that Section 1597.55b is not being implemented in accordance  
17 with Section 18285.5 of the Welfare and Institutions Code.